

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, JULY 19, 2004
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:12 p.m. Mayor Murphy recessed the meeting at 2:55 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:05 p.m. with Deputy Mayor Atkins and Council Member Madaffer not present. Mayor Murphy recessed the meeting at 4:40 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 4:52 p.m. with Deputy Mayor Atkins and Council Member Madaffer not present. Mayor Murphy recessed the meeting at 6:48 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 7:10 p.m. with Deputy Mayor Atkins, Council Member Lewis and Council Member Madaffer not present. Mayor Murphy adjourned the meeting at 7:58 p.m. into Closed Session in the Twelfth Floor Committee Room to discuss existing and anticipated litigation.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Deputy Mayor Atkins-not present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-not present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour (ek)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Deputy Mayor Atkins-not present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-not present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Reverend Tim Tiffany of
University Christian Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Donna Frye.

FILE LOCATION: MINUTES

ITEM-30: Return to Normandy Day.

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-73) ADOPTED AS RESOLUTION R-299454

Recognizing the American and Allied heroes who landed at Normandy, France in World War II, and commending the Return to Normandy Association for its commitment to preserve the history and honor the legacy of these brave soldiers who fought courageously to help change the course of the Second World War;

Proclaiming July 19, 2004 to be "Return to Normandy Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:18 p.m. – 2:29 p.m.)

MOTION BY LEWIS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-31: Prosecutors of the Year 2003 Award.

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2005-16) ADOPTED AS RESOLUTION R-299455

Recognition and presentation of Prosecutor of the Year 2003 Award.

Subitem-B: (R-2005-55) ADOPTED AS RESOLUTION R-299456

Recognition and presentation of Prosecutor of the Year 2003 Award.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:30 p.m. – 2:49 p.m.)

MOTION BY INZUNZA TO ADOPT IN RECOGNITION AND PRESENTATION OF PROSECUTORS OF THE YEAR 2003 AWARD TO CHANDANI FLINN AND JUDY

TASCHNER. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

CLOSED SESSION:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

REFERRED TO CLOSED SESSION OF TUESDAY, JULY 20, 2004

**CS-1 *Paulson v. City of San Diego*
United States District Court No. 89cv00820-GT(POR)**

DCA assigned: Chapin

This matter concerns the Mt. Soledad cross and is the subject of an open session hearing before the City Council on Tuesday, July 20, 2004. In Closed Session, the City Attorney will brief the City Council on the implications of the case for the open session hearing.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:53 p.m. – 2:54 p.m.)

**CS-2 *Over Natural Gas Costs in 2000-2001*
San Diego Superior Court Natural Gas Anti-Trust Cases I, II, III, and IV;
JCC Nos. 4221, 4224, 4226, and 4228**

REFERRED TO CLOSED SESSION OF TUESDAY, JULY 20, 2004

DCA assigned: Ortlieb

This matter involves a pending class action suit against retail sellers of natural gas, including Semptra Energy and some of its affiliates, for anti-competitive acts and unfair business practices in 2000 and 2001. In Closed Session, the City

Attorney will discuss the class action with the City Council, whether to remain represented that class, and whether to pursue other options including separate litigation.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:53 p.m. – 2:54 p.m.)

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code section 54956.9(b):

CS-3 Miramar and North City Landfill Gas Cogeneration Projects

REFERRED TO CLOSED SESSION OF TUESDAY, JULY 20, 2004

DCA assigned: Ortlieb

This matter concerns a contract dispute arising from several interrelated agreements for the “privatized” Miramar Landfill Gas Collection System [Gas Agreement], the Miramar Cogeneration Facility Agreement [Miramar Agreement] and North City Cogeneration Facility Agreement [North City Agreement]. In Closed Session, the City Attorney will report to the City Council on the conduct of negotiations to finalize a settlement agreement.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:53 p.m. – 2:54 p.m.)

Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):

CS-4 Over Natural Gas Costs in 2000-2001

REFERRED TO CLOSED SESSION OF TUESDAY, JULY 20, 2004

DCA assigned: Ortlieb

This matter involves a pending class action suit against retail sellers of natural gas, including Sempra Energy and some of its affiliates, for anti-competitive acts and unfair business practices in 2000 and 2001. In Closed Session, the City Attorney will discuss the class action with the City Council, whether to remain represented that class, and whether to pursue other options including separate litigation.

Mayor Murphy closed the hearing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:53 p.m. – 2:54 p.m.)

* ITEM-100: Contract Change Order No. 1 for Additional Funding for Sewer Pump Station 19.

(See memorandum from Frank Belock, Jr. dated 5/5/2004. La Jolla Community Area. Districts-1 and 2.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2005-37 Cor. Copy) ADOPTED AS RESOLUTION R-299457

Approving Change Order No. 1 dated June 15, 2004, issued in connection with the contract between the City of San Diego and Orion Construction Corporation, for the construction of Sewer Pump Station No. 19 Replacement (Project); and the change therein set forth, amounting to a net increase in the contract price of \$301,554;

Authorizing the expenditure of an amount not to exceed \$301,554 from Sewer Fund 41506, CIP-46-106.0, Annual Allocation – Sewer Pump Station Restorations, solely and exclusively, for the purpose of providing funds for the Project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 5/12/2004, NR&C voted 3 to 0 to approve. (Councilmembers Lewis, Frye, and Inzunza voted yea. Councilmembers Zucchet and Madaffer not present.)

SUPPORTING INFORMATION:

Van Nuys canyon is located at the end of Van Nuys Way, near the intersection of Van Nuys Street and Cass Street, in the La Jolla Community area. Due to the deteriorated condition of the 8-inch Vitrified Clay sewer main within Van Nuys Canyon, Metropolitan Wastewater Department performed several emergency repairs on the pipe. After each emergency repair, temporary erosion control measures were installed. However, the erosion control measures did not successfully prevent severe erosion from occurring during recent heavy rains. Currently, the surface runoff flows through many areas that were impacted by the Metropolitan Wastewater Department's emergency repair operations and not through the original streambed. The eroded condition threatens sewer infrastructure, canyon habitat, and possibly private property located downstream.

The intent of the work is to direct storm runoff back into the natural channel and restore the canyon functionality by installing native cobble check dams, earthen diversion structures, and native vegetation for erosion control. The proposed project work is located within the lower third of the canyon.

Due to the urgent nature of this canyon and the need to provide sufficient time for native vegetation to establish itself before the next rains, it was determined that the work needed to be performed as rapidly as possible, and the best means to accomplish that objective was to execute a change order through the Pump Station 19 Contract. On April 7, 2003, the City Manager accepted the low base bid of \$2,958,435 from Orion Construction Corporation, for the construction of Sewer Pump Station 19, part of the City of San Diego's ongoing citywide pump station upgrades. Construction began on September 22, 2003, and is 20% complete. This pump station project is located approximately one mile away from the canyon site. The project currently has a contractor who has the appropriate and necessary resources available to perform the work.

The change order work will minimize future erosion of sewer infrastructure (manholes and mains), habitat losses, and the possibility of storm runoff overflowing the downstream storm drain structures, meant to protect the downstream private property.

On January 8, 2004, City staff presented the erosion issue and a proposal for addressing it to the La Jolla Community to solicit their input and concurrence, and walked the site with concerned community groups who supported the proposed work.

FISCAL IMPACT:

The total cost of this project is \$4,689,851. Funding of \$5,206,844 was previously authorized by Council Resolutions R-292037, R-293649, and R-297815. Funds of \$301,554 are available in Sewer Fund 41506, CIP-46-106.0, Annual Allocation – Pump Station Restoration, for this purpose.

Loveland/Belock/HR

Aud. Cert. 2401207.

FILE LOCATION: CONT-Orion Construction Corp.

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

CONSENT MOTION BY MAIENSCHIEIN TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

* ITEM-101: Fourth Amendment to Consultant Agreement with Helix Environmental Planning, Inc., for State Route 905 Environmental Documents.

(Otay Mesa Community Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-36) ADOPTED AS RESOLUTION R-299458

Authorizing the City Manager to execute a Fourth Amendment to the Agreement between the City of San Diego and Helix Environmental Planning, Inc., for consulting services in an amount not to exceed \$100,000 for State Route 905, under the terms and conditions set forth in the Fourth Amendment;

Authorizing the expenditure of an amount not to exceed \$100,000 from CIP-52-396.0, State Routes 905 and 125 right of way protection, for additional consulting services for State Route 905.

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

In November 1994, the City entered into an agreement with Helix Environmental Planning, Inc. to provide professional services as part of the preparation of an environmental document for State Route 905. In August 1996, the original agreement was amended to provide for additional services. In June 1998, the City Council adopted a second amendment to the agreement in the amount of \$395,794 and in October 2002, the City Council adopted a third amendment to the agreement in the amount of \$165,950 for the provision of additional environmental studies and services.

This proposed fourth amendment is recommended by City and Caltrans staff to cover extra environmental studies needed as a result of design and Study Corridor changes requested by Caltrans and to provide Caltrans with the remaining environmental services to complete the final Environmental Impact Study/Environmental Impact Report.

Caltrans has requested that this amendment be executed so that they can complete their environmental analysis for State Route 905, and they have agreed to reimburse the City for 100% of the costs for this amendment. Under the existing Cooperative Agreement between the City and Caltrans entered into on December 10, 1996 (Document No. RR-288209), the City is required to pay 20% of the costs for the State Route 905 environmental analysis. The Cooperative Agreement is in the process of being amended by Caltrans to provide for full reimbursement of City costs associated with this Fourth Amendment to Consultant Contract for State Route 905 given that the Amendment is needed to cover changes requested solely by Caltrans.

FISCAL IMPACT:

Caltrans has agreed to fully reimburse the City for the \$100,000 expenditure for this fourth consultant contract amendment.

Loveland/Belock/PB

Aud. Cert. 2401137.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

CONSENT MOTION BY MAIENSCHIN TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

* ITEM-102: Phase Funded Consultant Agreement with URS Corporation for Coastal Rail Trail Design.

(Torrey Pines and University Community Areas. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-49) ADOPTED AS RESOLUTION R-299459

Authorizing the City Manager to execute a phase funded agreement with URS Corporation, in an amount not to exceed \$1,170,503.76, for environmental and engineering services, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$589,977.59 from CIP-58-162.0, Coastal Rail Trail Project, of which \$508,207.59 is from Fund No. 38693, Congestion Mitigation Air Quality (CMAQ) and \$81,770 is from Fund No. 30301, Proposition A Bike Ways, for Phase I of the Agreement, for the purpose of providing funds for the above referenced Project;

Approving the expenditure of an amount not to exceed \$580,526.17 for Phase II of the Agreement with URS Corporation, contingent on the receipt of the additional funds from Caltrans and SANDAG, and provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

The Coastal Rail Trail project, CIP-58-162.0, provides for a bicycle facility between the San Diego - Del Mar City limit and Downtown San Diego. This project is part of a \$40 million larger multi-jurisdictional project, which proposes a bikeway along the coast in the cities of Oceanside, Encinitas, Solana Beach, Carlsbad, Del Mar, and San Diego based on the project study report dated October 2000 by Chapin Land Management, Inc. and Transtech Engineering, Inc. According to the aforementioned study, the City of San Diego portion of the project is estimated at total cost of \$19.4 million. It is intended to provide regional connectivity for both commuting bicyclists and recreational activities.

The City's Consultant Services Coordinator provided a list of nine consultants to be interviewed for the project. Eighth firms accepted the invitation to the interview except Martin & Martin who declined to interview. These eighth firms were interviewed in accordance with Council Policy 300-7 and Administration Regulation 25.60 and Caltrans regulation for hiring consultants for Federally Funded projects. URS Corporation was selected as the consultant to provide the environmental and engineering design services.

Under this agreement, the consultant will prepare the environmental document and engineering design for the northerly ten (10) miles (from the Gilman Drive/I-5 intersection to the Sorrento Valley Road/Carmel Valley Road intersection) of the City of San Diego's portion of the Coastal Rail Trail. The project alignment was discussed with staff from SANDAG and CALTRANS. Furthermore, SANDAG and CALTRANS reviewed and approved the consultant's proposed scope of work.

The proposed consultant agreement with URS Corporation for the environmental and engineering design will consist of two phases. Phase I will cover the preliminary engineering and environmental services at a cost of \$589,977.59 and is estimated to be completed in November 2005. Funds for Phase I are available in CIP-58-162.0. Phase II will cover the engineering plans, specifications, and estimates at a cost of \$580,526.17 and is estimated to be completed in July 2007. The construction cost for the project will be determined when the preliminary design for the proposed alignment is completed. Staff will work with SANDAG and Caltrans to secure the funding required for the remaining environmental, engineering design, and construction costs of the project.

FISCAL IMPACT:

The total fee for providing professional services under this agreement for Phase I is \$589,977.59. Funds for Phase I are available in CIP-58-162.0, Coastal Rail Trail, Fund #38693, Congestion Mitigation Air Quality (CMAQ), and Fund #30301, Proposition A Bike Ways. A subsequent

Council Action will be required to accept additional funds from Caltrans and SANDAG for Phase II of this agreement when such funds become available.

Loveland/Belock/PB

Aud. Cert. 2500010.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

CONSENT MOTION BY MAIENSCHIEIN TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

* ITEM-103: Subdivision Off-Site Right-of-Way and Easement Acquisition Agreement with Western Pacific Housing McGonigle Canyon, LLC (Developer) for Construction of Carmel Valley Trunk Sewer.

(Pacific Highlands Ranch Community Area. District-1.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-54) ADOPTED AS RESOLUTION R-299460

Authorizing the City Manager to execute, a Subdivision Off-Site Right-of-Way and Easement Acquisition Agreement with Western Pacific Housing McGonigle Canyon, LLC (Developer), for the acquisition of property rights for the Carmel Valley Trunk Sewer Project, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$370,750 from Developer’s Trust Account No. 63020 for labor, title, escrow, and miscellaneous costs, for the purpose of providing funds for the above referenced Project.

CITY MANAGER SUPPORTING INFORMATION:

This project provides for the construction of the Carmel Valley Trunk Sewer project which consists of approximately 2.6 miles of 30" sewer main and appurtenant facilities which are needed to replace the existing 18" trunk sewer and provide capacity for new development in the communities of Black Mountain Ranch, Pacific Highlands Ranch, Torrey Highlands, Del Mar Mesa, and Rancho Penasquitos. The Carmel Valley Trunk Sewer is a critical facility that is needed to address failing pipe in the existing system and provide capacity for new development. The project will help to avoid the risk of a major sewage spill into sensitive habitat in McGonigle Canyon, Penasquitos Lagoon, and the Pacific Ocean.

Completion of the Carmel Valley Trunk Sewer Replacement project is a required condition of development in the Pacific Highlands Ranch and surrounding communities. In November 2003 the City entered into an agreement with Western Pacific Housing by which the developer would design, acquire property rights and construct the Carmel Valley Trunk Sewer as a Capital Improvement Program project.

The Developer has acquired all the property rights for this project except from one owner. The developer now requests that the City enter into a Subdivision Offsite Right-of-Way Acquisition Agreement to assist in completing the acquisition of the one remaining easement so the project may proceed. This action approves this Right-of-Way Acquisition Agreement.

The Developer has opened a Developer's Trust Account and deposited the sum of \$370,750 to cover all the City's acquisition costs.

FISCAL IMPACT:

Funds in the amount of \$370,750 are available in Developer's Trust Account No. 63020.

Herring/Griffith/RAG

Aud. Cert. 2401199.

FILE LOCATION: DEED F-9765

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

CONSENT MOTION BY MAIENSCHIEIN TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea,
Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-104: Initiating a Community Plan Amendment to Increase the Total Average Daily Trips to Accommodate Community Center/YMCA at Torrey Hills Neighborhood Park.

(Torrey Hills Community Area. District-1.)

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-51) ADOPTED AS RESOLUTION R-299461

Initiating the plan amendment process to increase the total Average Daily Trips in the community to accommodate a community center/YMCA at the Torrey Hills Neighborhood Park.

SUPPORTING INFORMATION:

This action will initiate a plan amendment to the Torrey Hills Community Plan. The Torrey Hills Community Plan allows for a community center or YMCA to be built in the Torrey Hills Neighborhood Park. The community plan assigns Average Daily Trips ("ADTs") to all areas within the community; however, the ADTs assigned to the park are not sufficient to accommodate the proposed YMCA. While the community plan contemplates transfers of ADTs among properties, there are currently no additional unassigned ADTs left in the community and the YMCA does not have the ability to purchase ADTs for transfer. This amendment is needed to increase the total ADTs in the community in order to assign a sufficient number to the neighborhood park so that the YMCA can be built. The community plan amendment will focus only on the issue of ADTs for the YMCA.

The Torrey Hills Community Planning Board has voted to support this action. The Planning Board wants to ensure that this amendment is focused only on additional ADTs for the YMCA.

The plan amendment initiation process is identified in Section 122.0103 (a) of the Land Development Code which states that the City Council may initiate an amendment to a land use

plan by adopting a resolution. If initiated, the plan amendment will be processed concurrently with the Conditional Use permit for the YMCA.

Loveland/Williams

FILE LOCATION: LAND-Torrey Hill Community Area (10)

COUNCIL ACTION: (Time duration: 2:49 p.m. – 2:52 p.m.)

MOTION BY PETERS TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present Inzunza-yea, Mayor Murphy-yea.

* ITEM-105: Initiating Community Plan Amendment to Relocate the Fire Station No. 47 in the Pacific Highlands Ranch Subarea Plan in the Carmel Valley Community.

(Carmel Valley Community Area. District-1.)

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-52 Cor. Copy) RETURNED TO THE CITY MANAGER

Initiating the plan amendment process to revise the location site for Fire Station No. 47 within the Pacific Highlands Ranch Subarea Plan from the northeast portion of the Pacific Highlands Ranch Subarea, north of Carmel Valley Road and east of Rancho Santa Fe Farms Road to the southwest portion of the Pacific Highlands Ranch Subarea, north of State Route 56 and the Camino Santa Fe on-ramp, within the Employment Center land use designation, in the Carmel Valley Community.

SUPPORTING INFORMATION:

The Pacific Highlands Ranch Subarea Plan identifies a fire station (#47) in the northeast portion of the community, north of Carmel Valley Road and east of Rancho Santa Fe Farms Road. The City of San Diego Fire Department has determined that this location for the fire station will not sufficiently meet its needs for optimal fire protection coverage. The Fire Department has identified an alternative location for Station #47, within the community. The new site is located

north of State Route 56 and the Camino Santa Fe on-ramp, within the Employment Center land use designation.

The Owner of both the original and the new site is Pardee Homes, who has agreed to the relocation of the fire station site. Documents to ensure the purchase of the new site will be prepared concurrently with the processing of the plan amendment.

The new site is located in an employment center, instead of in a residential neighborhood. It has improved freeway access and will shorten response times and improve coverage to a much larger area within Carmel Valley.

Loveland/Williams

FILE LOCATION: LAND-Carmel Valley Community Area (10)

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

CONSENT MOTION BY MAIENSCHIN TO RETURN TO THE CITY MANAGER FOR FURTHER REVIEW. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

* ITEM-106: Initiating Community Plan Amendment to Relocate the Fire Station No. 48 in the Black Mountain Ranch Subarea of the Rancho Penasquitos Community Planning Area.

(Rancho Penasquitos Community Area. District-1.)

COUNCILMEMBER PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2005-60) RETURNED TO THE CITY MANAGER

Initiating the plan amendment process to revise the location site of Fire Station No. 48 from the northeast portion of the Rancho Penasquitos Community to the southeast portion of the Rancho Penasquitos Community, north of Carmel Valley Road.

SUPPORTING INFORMATION:

The Black Mountain Ranch Subarea Plan identifies two fire station sites within the community. Santaluz Station #46 is located in the South Village portion of the community and is already constructed. A second fire station (Station #48) is identified in the North Village portion of the community, on the south side of Camino del Norte (Camino del Sur). This location is adjacent to the northern boundary of the community and of the City. Across Camino del Norte and to the east, in the County of San Diego, is an existing fire station within the Rancho Santa Fe Fire Protection District. This newly constructed fire station is less than a quarter-mile from the proposed Station #48 site.

The San Diego Fire and Rescue Department has determined that the proposed location for Station #48 will not efficiently meet its needs for optimal fire protection coverage. The location would overlap the coverage provided by the Rancho Santa Fe station and does not provide optimal coverage in the eastern portion of Black Mountain Ranch, and other service areas. The San Diego Fire and Rescue Department has identified a new location for Station #48, within the community. The new site is located in the south eastern portion of the community, north of Carmel Valley Road, where it meets the County boundary line.

The owner of both the original and new sites, Black Mountain Ranch, LLC, has agreed to the relocation of the fire station site. Documents to ensure the purchase of the new site for the fire station will be prepared concurrently with the processing of the plan amendment.

The new site is located near the new Black Mountain Ranch Community Park at the intersection of Carmel Valley Road and Black Mountain Road. Carmel Valley Road, when completed, will provide better access to service areas to the west and east and improved response times. Agreements between the City of San Diego Fire and Rescue Department and the Rancho Santa Fe Fire Protection District will ensure that coverage will be provided in both the City and the County.

Loveland/Williams

FILE LOCATION: LAND-Rancho Penasquitos Community Area (10)

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

CONSENT MOTION BY MAIENSCHIN TO RETURN TO THE CITY MANAGER FOR FURTHER REVIEW. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

- * ITEM-107: Letter of Intent Between the Cities of San Diego and Chula Vista regarding Property Reorganization within the Otay Valley Regional Park Planning Area.

(Otay Mesa and Otay Mesa-Nestor Community Areas. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-851) ADOPTED AS RESOLUTION R-299462

Authorizing a Second Letter of Intent between the City of San Diego and the City of Chula Vista, regarding the reorganization of the San Diego and Chula Vista jurisdictional boundaries within the Otay Valley Regional Park Planning Area, under the substantially the same terms set forth in the Letter of Intent.

CITY MANAGER SUPPORTING INFORMATION:

In 2001, the cities of San Diego and Chula Vista began negotiations to pursue a reorganization (annexation) of two properties from the City of San Diego to the City of Chula Vista and one property from the City of Chula Vista to the City of San Diego in the Otay Valley. In order to officially acknowledge these negotiations, the San Diego City Council authorized the City Manager to sign a Letter of Intent (LOI) on August 5, 2002 (R-296937) and both cities subsequently signed the LOI.

The LOI expired on December 31, 2003. Work to analyze this reorganization is continuing between the two cities and the involved parties have agreed to continue negotiations. In order to continue negotiations, the City of Chula Vista has requested that a new Letter of Intent be drafted, incorporating a new expiration date of July 31, 2006.

This action will allow for continued negotiations between the cities, with the Letter of Intent reflecting the July 31, 2006, expiration date.

FISCAL IMPACT:

There is no fiscal impact associated with the recommendation.

Ewell/Goldberg/MS

FILE LOCATION: ANNEX-Otay Valley Regional Park Planning Area (06)

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

CONSENT MOTION BY MAIENSCHIEIN TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

* ITEM-108: Reappointments to the La Jolla Shores Planned District Advisory Board.

(See memorandum from Mayor Murphy dated 7/6/2004, with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-34) ADOPTED AS RESOLUTION R-299463

Council confirmation of the following reappointments by the Mayor, to serve as members of the La Jolla Shores Planned District Advisory Board, for terms to expire on April 1, 2006:

Reappointments:

Loraine L. Pedowitz
Gail Forbes
Marvin Cohen

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

CONSENT MOTION BY MAIENSCHIEIN TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

* ITEM-109: James Hill Day.

DEPUTY MAYOR ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2004-1394) ADOPTED AS RESOLUTION R-299464

Commending James Hill for his outstanding commitment to serve the community of San Diego, and congratulating him upon the celebration of 40 years of the Treasure Trove;

Proclaiming June 30, 2004 to be "James Hill Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

CONSENT MOTION BY MAIENSCHIN TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-200: Fiscal Year 2004-2005 Appropriation Ordinance.

CITY MANAGER'S RECOMMENDATION:

Hold the first public hearing of the ordinance:

(O-2005-1) HEARING HELD

An Ordinance adopting the Annual Budget for the Fiscal Year 2004-2005 and appropriating the necessary money to operate the City of San Diego for the said fiscal year.

NOTE: Today's action is the first public hearing. See Item 330 on the docket of Tuesday, July 20, 2004 for the second public hearing and introduction and adoption of the Ordinance.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:54 p.m. – 2:55 p.m.;
7:22 p.m. – 7:57 p.m.)

MOTION BY PETERS TO APPROVE THE FIRST HEARING. Second by Zucchet.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present,
Lewis-not present, Maienschein-yea, Frye-nay, Madaffer-not present, Inzunza-yea,
Mayor Murphy-yea.

ITEM-201: Pension Obligation Bonds.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-81) ADOPTED AS RESOLUTION R-299465, WITH DIRECTION

Authorizing the assembling of a financing team to assess the issuance of Taxable
Pension Obligation Bonds (POBs) in early 2005 to reduce the outstanding pension
Unfunded Actuarial Accrued Liability (UAAL).

CITY MANAGER SUPPORTING INFORMATION:

In response to the Mayor's memorandum of July 7, 2004, the City Manager requests authority to assemble a financing team to assess the issuance of Taxable Pension Obligation Bonds (POBs) in early 2005 to reduce the outstanding pension Unfunded Actuarial Accrued Liability (UAAL). The financing team will include City staff, a financial advisor to provide independent advice on the structuring of the bonds, bond underwriter, bond counsel, and disclosure counsel to develop bond documents. In consultation with the financing team, a financing plan for the POBs will be developed and financing documents and authorization to issue will be docketed in the Fall with POB proceeds received early Calendar Year 2005.

Ewell/Frazier/Vattimo

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:01 p.m. – 3:50 p.m.)

MOTION BY PETERS TO ADOPT WITH DIRECTION FROM MAYOR MURPHY THAT STAFF COME BACK TO THE CITY COUNCIL AFTER THE SUMMER RECESS AND PROVIDE AN UPDATE REPORT REGARDING ASSEMBLING OF A FINANCING TEAM. IF A PROBLEM IS ENCOUNTERED IN THE PROCESS, COUNCIL MEMBERS CAN AT THAT TIME PROVIDE INPUT AND ADVICE TO THE CITY MANAGER FOR SOLUTIONS. ACCEPT COUNCIL MEMBER FRYE'S REQUEST THAT THE CITY MANAGER PROVIDE HER WITH A COPY OF THE RFP. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the November 2, 2004 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	5/28/2004	158	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee.
Wednesday	6/16/2004	139	Rules Committee review of ballot proposals.
Monday	6/21/2004	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee.
Monday	6/28/2004	127	Council adopts propositions for ballot; directs
Monday	through 7/19/2004	to 106	City Attorney to prepare ordinances.

Monday	7/26/2004	99	Council adopts ordinances prepared by City Attorney.
Friday	8/06/2004	88	Last day for City Clerk to file with Registrar of Voters all elections material.
Thursday	8/19/2004	75	Last day to file ballot arguments with City Clerk.

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

ITEM-251: ARGUMENTS SUPPORTING OR OPPOSING PROPOSITIONS

For propositions approved by the Council for submittal to the qualified voters of the City of San Diego at the Municipal General Election to be held on Tuesday, November 2, 2004, the City Clerk has fixed 5:00 p.m. on Thursday, August 19, 2004, as a reasonable date prior to such election after which no arguments for or against City Propositions may be submitted to the Clerk.

Any argument for or against any City proposition shall not exceed 300 words in length and may be filed by the Council, or any member or members of the Council authorized by the Council, or the bona fide sponsors or proponents of the measure, or any bona fide association of citizens or individual voter, or any combination of voters and associations.

All arguments must be accompanied by a statement signed by each author that the argument is true and correct to the best of his/her knowledge and belief. (Forms for this statement are available in the Office of the City Clerk.)

An argument shall not be accepted unless accompanied by the name or names of the person or persons submitting it, or if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers. No more than five signatures shall appear with any argument submitted. At least one of the individuals signing the argument must be a registered voter in the City of San Diego. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk.

Arguments shall be submitted to the City Clerk at the Office of the City Clerk, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, California, 92101.

- * ITEM-S400: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2004-1359) ADOPTED AS RESOLUTION R-299466

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

CITY MANAGER SUPPORTING INFORMATION:

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION: GEN'L- Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV)

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

CONSENT MOTION BY MAIENSCHIEIN TO ADOPT. Second by Inzunza.
Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-nay.

ITEM-S401: In the Matter of Information Report Update on FY 2004 – 2005 State Budget.

CONTINUED TO MONDAY, JULY 26, 2004

(See memorandums from Andrew Poat dated 7/8/2004 and 7/13/2004.)

(Continued from the meeting of July 12, 2004, Item S401, at the request of Councilmember Madaffer for further review.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:49 p.m. – 2:49 p.m.)

MOTION BY FRYE TO CONTINUE TO JULY 26, 2004 FOR FURTHER REVIEW BY THE CITY MANAGER. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

ITEM-S402: Seven actions related to submitting to the voters various ballot propositions relating to recommendations from the Pension Reform Committee.

(See City Manager Reports CMR-04-154 and 04-143; memorandum from Charles G. Abdelnour dated 6/28/2004; memorandum from Mayor Murphy dated 7/7/2004; and memorandum from the City Attorney dated 6/25/2004. The following were not available at Committee: memorandum from the City Attorney dated 7/16/2004 and memorandum from the Pension Reform Committee dated 6/9/2004.)

TODAY'S ACTIONS ARE:

Consider introduction and adoption any or all of the ordinances in Subitem A, Subitem B and Subitem C. **NOTE:** As an option, Subitem D could be introduced and adopted. Subitem D combines the issues contained in Subitems B and C, and therefore should be considered only if both Subitems B and C are not adopted.

Subitem-A: (O-2005-11) INTRODUCED AND ADOPTED AS
ORDINANCE O-19299 (New Series)

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide General Election to be held on November 2, 2004, one proposition amending the City Charter by amending Article IX, Section 143 regarding City contributions to the Retirement System.

Subitem-B: (O-2005-12) INTRODUCED AND ADOPTED AS AMENDED AS

ORDINANCE O-19300, WITH DIRECTION (New Series)

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide General Election to be held on November 2, 2004, one proposition amending the City Charter by amending Article IX, Section 144 and amending Article X, all regarding the composition of the Retirement Board.

Subitem-C: (O-2005-14) FAILED

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide General Election to be held on November 2, 2004, one proposition amending the City Charter by amending Article IX to add Section 144.1 regarding the processing of disability retirement determinations by the Retirement Board.

Subitem-D: (O-2005-13) NOTED AND FILED

Introduction and adoption of an Ordinance submitting to the qualified voters of the City of San Diego at the Municipal Election consolidated with the Statewide General Election to be held on November 2, 2004, one proposition amending the City Charter by amending Articles IX, Section 144 and amending Article X, all regarding the composition and authority of the Retirement Board.

Subitem-E: DIRECTION GIVEN

In the matter of Council direction regarding the City Attorney's impartial analysis on any or all of the ballot measures approved for placement on the ballot.

Subitem-F: DIRECTION GIVEN

In the matter of Council direction regarding the City Manager's fiscal analysis of on any or all of the ballot measures approved for placement on the ballot.

Subitem-G: DIRECTION GIVEN

In the matter of Council direction regarding authorship of ballot arguments for any or all of the ballot measures approved for placement on the ballot.

**RULES, FINANCE AND INTERGOVERNMENTAL RELATIONS COMMITTEE'S
RECOMMENDATION:**

On 7/14/2004, RULES voted 4 to 0 to:

- A. Approve the Pension Reform Committee's recommendation #1 (regarding amortization costs) as amended by the Mayor's proposal and as amended by Councilmember Peters' language submitted today.
- B. Forward the Pension Reform Committee's recommendation #2 (regarding disability hearings) to the full City Council without a recommendation.
- C. Adopt the Mayor's proposal to amend Charter Section 144 with two changes: 1) Change 10 years experience to 15 years experience and 2) stagger the 4-year terms.

Along with these motions, the Rules Committee directed the City Attorney to bring to the full City Council an explanation of the pertinent legal issues involving these proposals and to consult with our litigators to make sure these proposals are consistent with the Gleason case settlement. (Councilmembers Peters, Maienschein, Madaffer, and Mayor Murphy voted yea. Councilmember Atkins not present.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:50 p.m. – 7:21 p.m.)

MOTION BY ZUCCHET TO INTRODUCE, DISPENSE WITH THE READING, AND ADOPT THE ORDINANCES AS AMENDED TO AMEND THE ORDINANCE IN SUBITEM B, PAGE 3 OF 10, SUBSECTION (f) TO READ "ONE CITY MANAGEMENT EMPLOYEE IN THE ADMINISTRATIVE SERVICE APPOINTED BY THE CITY MANAGER TO SERVE AT THE PLEASURE OF THE CITY MANAGER." DIRECT THAT THE SENTENCE APPEARING IN THE ARIZONA STATE RETIREMENT SYSTEM STATUTE, PAGE 14, SUBSECTION (D)(1), "A PERSON WHO IS A STOCKBROKER OR BOND BROKER AND WHO IS ACTIVELY ENGAGED IN THE PROFESSION OF A STOCKBROKER OR BOND BROKER" BE INCLUDED AS PART OF THE CITY ATTORNEY'S INTERPRETATION AND IMPARTIAL ANALYSIS IN THE BALLOT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-yea, Maienschein-yea, Frye-nay, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

MOTION BY PETERS TO INTRODUCE, DISPENSE WITH THE READING, AND ADOPT THE ORDINANCE IN SUBITEM C. Second by Maienschein. Failed by the following vote: Peters-yea, Zucchet-nay, Atkins-not present, Lewis-not present, Maienschein-yea, Frye-nay, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

MOTION BY MAIENSCHIEIN THAT THE CITY COUNCIL REQUIRE THE CITY ATTORNEY'S IMPARTIAL ANALYSIS ON ANY OR ALL OF THE BALLOT MEASURES APPROVED FOR PLACEMENT ON THE BALLOT IN SUBITEM E; REQUIRE THE CITY MANAGER'S FISCAL ANALYSIS ON ANY OR ALL OF THE BALLOT MEASURES APPROVED FOR PLACEMENT ON THE BALLOT IN SUBITEM F; AND, IN CONJUNCTION WITH THE PENSION REFORM COMMITTEE, TO DELEGATE THE WRITING OF THE BALLOT ARGUMENT IN FAVOR TO THE MAYOR'S OFFICE FOR ANY OR ALL BALLOT MEASURES APPROVED FOR PLACEMENT ON THE BALLOT IN SUBITEM G. Second by Zucchet. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-not present, Lewis-not present, Maienschein-yea, Frye-yea, Madaffer-not present, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 7:58 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 7:57 p.m. – 7:58 p.m.)